

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CV-451-BO

RAYMOND TARLTON, as guardian ad)
litem for HENRY LEE MCCOLLUM, and J.)
DUANE GILLIAM, as guardian of the estate)
of LEON BROWN, et al.,)
)
Plaintiffs,)
)
v.)
)
KENNETH SEALEY, both individually and)
in his official capacity as the Sheriff of)
Robeson County, et al.,)
)
Defendants.)

ORDER

This matter is before the clerk on judgment debtor Leroy Allen's notice to claim exempt property [DE-488].

Allen filed the notice on May 24, 2023, stating that he served counsel for judgment creditors by mail on May 23, 2023. Additionally, counsel for judgment creditors were served by the notice of electronic filing generated by the filing of the notice on May 24, 2023. A judgment creditor has 10 days from being served with a motion to claim exempt property to file an objection to a judgment debtor's schedule of exemptions. See N.C. Gen. Stat. § 1C-1603(e)(5). Here, judgment creditors have not filed any objections and affirmatively state they have not objected. See Application for Writ of Execution [DE-489].

Given the lack of objection to the notice and pursuant to N.C. Gen. Stat § 1C-1603, the notice to claim exempt property [DE-488] is GRANTED, and the property listed in numbers 5

through 16 in the notice and attachments, attached to this order is designated as exempt property, to the extent and at the monetary amounts allowed by law.

SO ORDERED. This the 12 day of June, 2023.



Peter A. Moore, Jr.
Clerk of Court

EASTERN DISTRICT OF NORTH CAROLINA
UNITED STATES DISTRICT COURT

File No.

5:15-CV-451-BO

Name of Plaintiff

J. DUANE GILLIAM, Guardian of the Estate of Leon Brown,
RAYMOND C. TARLTON, Guardian Ad Litem for Henry C.
McCollum, KIMBERLY PINCHBECK, as Limited Guardian and
Conservator of the Estate of Henry Lee McCollum

**NOTICE OF RIGHT TO
HAVE EXEMPTIONS
DESIGNATED**

VERSUS

Name of Defendant

ROBESON COUNTY, TOWN OF RED SPRINGS, KENNETH SEALEY, both
Individually and in his Official Capacity as the Sheriff of Robeson
County, LARRY FLOYD, LEROY ALLEN, PAUL CANADY, Administrator
C.T.A. of the Estate of Luther Haggins, ROBERT PRICE, Administrator
C.T.A. of the Estate of Joel Locklear, Sr., CHARLOTTE NOEL FOX,
Administrator of the Estate of Kenneth Snead

N.C.G.S IC-1603

TO:

Name and Address of First Judgment Debtor

Leroy Allen
P.O. Box 803
Mt. Holly, NC 28120-0803

TO:

Name and Address of Second Judgment Debtor

Charlotte Noel Fox, Administrator of the Estate of Kenneth
Snead
701 Market Street
Wilmington, NC 28401

A judgement has been entered against you in the case captioned above in which you have been ordered to

pay money over turn over various household belongings to the judgment creditor.

The judgment creditor (person who has the judgment against you) is now seeking to collect this judgment and has asked me to give you notice of your rights. Under the Constitution and laws of North Carolina, you have the right to exempt from the collection of the judgment certain of your property (in other words, to keep it from being taken away from you). If you wish to keep your exempt property, you MUST fill out the attached Motion to Claim Exempt Property and mail or take it to the Clerk of Court at the address listed below. You MUST also mail or take a copy to the judgment creditor at his address listed below. The law gives you another option of requesting, in writing, a hearing before the Clerk to claim your exemptions. If you make a written request for a hearing, you will be notified of the time and place of the hearing when you may claim your exemptions.

It is important that you respond to this Notice no later than twenty (20) days after it was served on you because you will lose valuable statutory rights if you do nothing. If you do not respond, you will give up your right to statutory exemptions and the judgment creditor may be able to take any or all of your property to satisfy the judgment. You have certain constitutional rights you may claim if you give up your statutory rights. You may wish to consider hiring an attorney to help you with this proceeding to make certain that you receive all the protections to which you are entitled.

Name and Address of Judgment Creditor or Attorney

Date

Signature

Clerk of Court

Address of the Clerk of Court

Telephone No:

(202) 637-5493

NOTICE TO THE JUDGMENT CREDITOR

You may serve this Notice and the Motion to Claim Exempt Property by mailing a copy of each, registered or certified mail, return receipt requested, addressed to the judgment debtor. To prove service, you must file an affidavit (notarized by a notary public) with the Clerk asserting that (1) a copy of the notice of rights and Motion to Claim Exempt Property was deposited in the U.S. Mail for mailing by registered or certified mail, return receipt requested; (2) it was in fact received as evidenced by the attached registry receipt or other evidence of delivery; and (3) the genuine receipt or other evidence of delivery is attached. You must attach the U.S. Mail delivery receipt to the affidavit. Alternatively, service of the motion may be effected by any person who is not a party and who is at least 18 years of age following the procedures set forth in Federal Rules of Civil Procedures 4(e)(2). If your attempted service by certified or registered mail or personal service fails, you may then serve the judgment debtor by mailing a copy of the notice and motion to him at his last known address. To prove service, you must file a certificate with the Clerk that the notice and motion were served, indicating why you used such service, the date the notice was mailed and the address to which it was mailed. Remember, you may NOT use service by regular first class mail until you have tried first to serve the judgment debtor personally or by certified or registered mail and such service was unsuccessful.

RETURN OF SERVICE

I certify that this Notice and a copy of a motion to claim exempt property were received and served as follows:

JUDGMENT DEBTOR 1

<i>Date Served</i>	<i>Name of Judgment Debtor</i>

- By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- Other manner of service (specify)

JUDGMENT DEBTOR 2

<i>Date Served</i>	<i>Name of Judgment Debtor</i>

- By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- Other manner of service (specify)

Signed:

Person Making Return (Printed)

EASTERN DISTRICT OF NORTH CAROLINA
UNITED STATES DISTRICT COURT

File No. 

Judgment Creditor (Plaintiff)

**NOTICE TO CLAIM
EXEMPT PROPERTY
(STATUTORY EXEMPTIONS)**

VERSUS

Judgment Debtor (Defendant)

N.C.G.S. 1C -1603(c)

NOTE TO DEBTOR (DEFENDANT): *The Clerk of Court cannot fill out this form for you. If you need assistance, you should talk with an attorney.*

I, the undersigned, move to set aside the property claimed below as exempt.

1. I am a citizen and resident of _____
and was born on _____.
2. I am married to _____.
 I am not married.
3. My current address is _____.
4. The following persons live in my household and are dependent on me for support:

<i>Name(s) of Person(s) Dependent on Me</i>	<i>Age</i>	<i>Relationship</i>

5. I wish to claim as exempt (*keep from being taken*) my interest in the following real or personal property that I use as a residence. I also wish to claim my interest in the following burial plots for myself or my dependents. I understand that my total interest claimed in the residence and burial plots may not exceed \$35,000.00 (\$60,000 if I am 65 years of age or older and I previously owned my property as a tenant by the entireties or as a joint tenant with rights of survivorship and my former co-owner is deceased).

Street Address of Residence

County Where Property Located *Township* *No. by Which Tax Assessor Identifies Property*

Legal Description (Attach a copy of your deed or other instrument of conveyance or describe property in as much detail as possible. Attach additional sheets if necessary.)

Name(s) of Owner(s) of Record of Residence	Estimated Value of Residence (What You Think You Could Sell It For)
Amount of Lien(s) and Name(s) and Address(es) of Lienholder(s) (How much money is owed on the property and to whom.)	Current Amount Owed
	\$
	\$
Location of Burial Plots Claimed	Value of Burial Plots Claimed
	\$

6. I wish to claim the following personal property consisting of household furnishings, households goods, wearing apparel, appliances, books, animals, crops or musical instruments as exempt from the claim of my creditors (in other words, keep them from being taken from me). These items of personal property are held primarily for my personal, family or household use.

I understand that I am entitled to personal property worth the sum of \$5,000.00. I understand that I am also entitled to an additional \$1,000.00 for each person dependent on me for support, but not to exceed \$4,000.00 for dependents. I further understand that I am entitled to this amount after deducting from the value of the property the amount of any valid lien or security interest. Property purchased within 90 days of this proceeding may not be exempt.

(Some examples of household goods would be TV, appliances, furniture, clothing, radios, record players.)

Item of Property	Fair Market Value (What You Could Sell It For)	Amount of Lien Or Security Interest (Amount Owed on Property)	Name(s) of Lienholders(s) (To Whom Money is Owed)	Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amount Owed)
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$

7. I wish to claim my interest in the following motor vehicle as exempt from the claim of my creditors. I understand that I am entitled to my interest in one motor vehicle worth the sum of \$3,500.00 after deduction of the amount of any valid liens or security interests. I understand that a motor vehicle purchased within 90 days of this proceeding may not be exempt.

Make and Model	Year	Name(s) of Title Owner of Record
Fair Market Value (What You Could Sell It For)	Name(s) of Lienholder(s) or Record (Person(s) to Whom Money is Owed)	
\$		
Amount of Liens (Amount Owed)	Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amt. Owed)	
\$		

8. (This item is to claim any other property you own that you wish to exempt.) I wish to claim the following property as exempt because I claimed residential real or personal property as exempt that is worth less than \$35,000.00 or I made no claim for a residential exemption under section (5) above. I understand that I am entitled to \$5,000.00 in any property only if I made no claim under section (5) above or a claim that was less than \$35,000.00 under section (5) above. I understand that I am entitled to claim any unused amount that I was permitted to make under section (5) above up to a maximum of \$5,000 in any property. (Examples: if you claim \$34,000.00 under section (5), \$1,000.00 allowed here; if you claim \$30,000.00 under section (5), \$5,000 allowed here; if you claim \$35,000 under section (5), no claim allowed here.) I further understand that the amount of my claim under this section is after the deduction from the value of this property of the amount of any valid lien or security interests and that tangible personal property purchased within 90 days of this proceeding may not be exempt.

Item Of Personal Property Claimed	Fair Market Value	Amount of Liens	Name(s) of Lienholder(s)	Value of Debtor's (Defendant's) Interest
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$

Real Property Claimed (I understand that if I wish to claim more than one parcel, I must attach additional pages setting forth the following information for each parcel claimed as exempt.)

Street Address	Estimated Value of Property (What You Could Sell It For)	
	\$	
County	Township	No. by Which Tax Assessor Identifies Property

Description (Attach a copy of your deed or other instrument of conveyance or describe the property in as much detail as possible)

Name and Address of Lienholder	Current Amount Owed
Name and Address of Lienholder	Current Amount Owed

(Attach additional sheets for more lienholders)

9. I wish to claim the following item of health care aid necessary for myself my dependents.

Item	Purpose

10. I wish to claim the following implements, professional books, or tools (not to exceed \$2,000.00), of my trade or the trade of my dependent. I understand that such property purchased within 90 days of this proceeding may not be exempt.

Item	Estimated Value (What You Could Sell It For)	What Business or Trade Used In
	\$	
	\$	
	\$	

11. I wish to claim the following life insurance policies whose sole beneficiaries are my spouse and/or children as exempt

Name of Insurer	Policy No.	Beneficiary(ies)

12. I wish to claim as exempt the following compensation that I received or which I am entitled for the personal injury of myself or a person upon whom I was dependent for support, including compensation from a private disability policy or annuity, or compensation that I received for the death or a person upon whom I was dependent for support. I understand that this compensation is not exempt from claims for funeral, legal, medical, dental, hospital or health care charges related to the accident or injury that resulted in the payment of the compensation to me. I understand that if I wish to claim more than one amount of compensation exempt, I must attach additional pages setting forth the following information for each amount of compensation claimed exempt.

Amount of Compensation \$	Method of Payment: Lump Sum or Installments (If Installments, State Amount, Frequency and Duration of Payments)
Location/Source of Compensation	Name of Person(s) injured or killed giving rise to compensation

Unpaid Debts arising out of the injury or death giving rise to compensation (include names, addresses, services rendered and amount of debt)

13. I wish to claim as exempt the following retirement plans that I have that are individual retirement plans as described in the Internal Revenue Code or that are treated in the same manner as an individual retirement plan under the Internal Revenue Code, including individual retirement accounts and Roth retirement accounts as described in section 408(a) and section 408A of the Internal Revenue Code, individual retirement annuities as described in section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in section 408(c) of the Internal Revenue Code.

Type of Retirement Account	Name of Account	Account Number

14. I wish to claim as exempt the following funds I hold in a college savings plan that is qualified under section 529 of the Internal Revenue Code, not to exceed \$25,000. I understand that this plan must be used for the child's college expenses. I understand I may not exempt any funds I placed in this account within the preceding 12 months, except to the extent that any contributions were made in the ordinary course of my financial affairs and were consistent with my past pattern of contributions.

College Savings Plan	Account Number	Name(s) of Child(ren) Beneficiaries

15. I wish to claim as exempt the following retirement benefits to which I am entitled to under the retirement plans of other states and governmental units of other states. I understand that these benefits are exempt only to the extent these benefits are exempt under the laws of the state or governmental unit under which the benefit plan was established.

State/Governmental Unit	Name of Retirement Plan	Identifying Number

16. I wish to claim as exempt any alimony, support, separate maintenance, or child support payments or funds that I have received or that I am entitled to receive. I understand that these payments are exempt only to the extent that they are reasonably necessary for my support or for the support of a person dependent on me for support.

Type of Support	Person Paying Support	Amount & Location of Funds

17. The following is a complete listing of all of my assets that I have not claimed as exempt under any of the preceding paragraphs.

Item	Location	Estimated Value
		\$
		\$
		\$
		\$

18. The following is a complete list of persons or business that have judgments for money against me.

19. I certify that the above statements are true.

Date	<i>Signature of Judgment Debtor (Defendant)</i>
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20. A copy of this Motion was served on the judgment creditor (plaintiff) by:

- delivering a copy to the judgment creditor (plaintiff) personally.
- delivering a copy to the judgment creditor's attorney.
- depositing a copy of this motion in a post-paid properly addressed wrapper in a U.S. Mail, addressed to the judgment creditor (plaintiff) at the address shown on the notice of rights served on me.
- depositing a copy of this Motion in a post-paid properly addressed wrapper in a U.S. Mail, addressed to the judgment creditor's (plaintiff's) attorney at the following address:

Date	<i>Signature of Judgment Debtor/Attorney for Debtor (Defendant)</i>
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Address and Phone No. of Attorney for Debtor (Defendant)